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4602

*for 12/1/11*

CAPITAL IMPROVEMENTS PROGRAM

Harrison Avenue

Attachments



*( Boston Redevelopment Authority )*



MEMORANDUM

TO: Phil Zeigler

FROM: Richard Hong

Date: March 19, 1987 *PH*

SUBJECT: Chinatown - Harrison Avenue Sidewalk Areaways

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As indicated earlier, a copy of Schoenfeld Associates, Inc., special report of the existing areaways' structural conditions of Harrison Avenue from Essex Street to Kneeland Street were sent to (1) Comm. Joe Casazza, PWD, and (2) Comm. Sommer, Inspectional Services Dept.

Attached is a copy of City of Boston Law Dept. dated, March 2, 1974, Re: Condition of Areaways from Gordon Barnes, City PWD, as their preliminary response to said report. The letter is self explanatory and it outlines the procedures that you and the legal staff must follow (on behalf of the City) if you propose to make brick improvements and/or other special surface treatment to the sidewalk areaway sections.

C: Wallace Orpin

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MAR-5 PM 12:10

HERBERT P. GLEASON  
Corporation Counsel

P. W. D.  
HIGHWAY DIVISION

CITY OF BOSTON



LAW DEPARTMENT

*§ Distribution: Information not  
Reference*  
B. Barabato  
J. Tomas3  
R. Hong  
B Adams

CITY HALL  
BOSTON, MASSACHUSETTS 02201  
722-4100

March 2, 1974

RECEIVED  
ENGINEERING  
BOSTON REDEVELOPMENT AUTHORITY

MAR 12 1987

Mr. Robert S. Bowes  
Division Engineer  
Public Works Department  
City Hall, Boston

Dear Mr. Bowes:

Re: Condition of Areaways

In reply to your request for information regarding the legal procedure to be followed in the case where walls over areaways are in a dangerous condition and abutters have occupied sections of the public way under the sidewalk area, the following procedures are suggested.

1. Once notification of a defect is received, an on-site inspection should be made of such defect, with particular significance given to the cause of the defect. If the defect is of such a character as to endanger the safety of public travel, it should be immediately repaired. Rev. Ord. of 1961, c. 21, §21.

2. If it is determined that the structure under the sidewalk has a causal connection with the defect, notice should be given to the abutting owner that repairs must be made to the structure or Rev. Ord. c. 21, §20, will be invoked. Thus, "the commissioner shall close and fill up, at the expense of the owner of the premises abutting on a sidewalk, any excavation under such sidewalk, whether constructed under a permit or not, which has not been closed and filled up within five days after the public improvement commission has ordered the owner so to do." (*Italics supplied.*)

3. In addition notice may also be given to the abutting owner that unless repairs be made to the structure, the permit for such area will be revoked. See Rev. Ord. c. 3, § 21. A permit

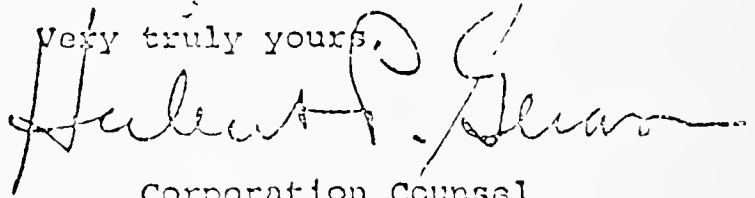


granted to a private person to use a street, even if he owns the fee therein, is a mere license revocable at the pleasure of the municipality in the interest of the easement of travel. City of Boston v. A. W. Perry, Inc., 304 Mass. 18, 21.

4. It should also be noted that Rev. Ord. c. 21, §16, requires the filing of a bond by the applicant before delivery of the permit. In addition, the Commissioner may at any time require a new bond. It is suggested that in the event any abutter refuses to perform or pay for repairs in an area in which his responsibility is apparent, his bonding company, if any, should be called on to pay for the cost of such work. In the alternative, c. 21, § 20, can be invoked relating to filling or closing up the excavation.

5. Rev. Ord. c. 21, §18, may also be utilized. This provides in effect that a landowner's maintenance of cellars and other excavations under a public way abutting his premises constitutes an agreement by him with the City to keep such excavations and the covers thereof in repair and to indemnify the City against all expense incurred by it through their presence or lack of repair. See also City of Boston v. A. W. Perry, Inc., 304 Mass. 18.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Herbert A. Sloan". The signature is fluid and cursive, with a long horizontal stroke at the end.

Corporation Counsel

HPG:dk





TO: Ricardo Millett  
FROM: Philip Zeigler  
DATE: February 6, 1987  
SUBJECT: Chinatown: Harrison Avenue Street Improvements

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#### BACKGROUND

Last year BRA received approval and funding (\$875,000) from the City to carry out street and sidewalk improvements in Chinatown on Harrison Avenue between Essex and Kneeland Streets, including Phillips Square. This project is important because of its proximity to LaFayette Place, the Kingston-Bedford Project, and because it serves as a major new pedestrian entrance to Chinatown from the Downtown area.

Concept design plans were prepared by our staff and Shoenfield Associates were retained by our Engineering Department to prepare preliminary engineering surveys and cost estimates for the project.

Briefly, the project consists of sidewalk widenings, brick paving, street trees, new lighting, new street alignments, and an opportunity to create a new symbolic entrance to Chinatown at Phillips Square on Essex Street.

#### CURRENT STATUS

Wally Orpin asked me to review with his staff the preliminary findings of the consultant. Briefly, the consultant has found that a significant portion of the public sidewalks have basement areaways below grade extending from the building facades and these private areaways are in poor structural condition.

It is Wally's opinion that these areas should be deleted from the construction contract, left in their present deteriorated state, and that new brick walks, curbs and landscaping be carried out in only the remaining areas. To include them may raise questions of liability and legality.

These findings raise a new series of design, policy, and funding issues which should be reviewed by BRA staff.

Additionally, Marc Older has had discussions with Marco Ottieri concerning potential interests of LaFayette Place in private funding of improvements in this area at Phillips Square.



This is a very important project which the BRA is carrying out for the City with City funds in Chinatown and it deserves our special attention. The Engineering Department is about to order the consultants to proceed on a course of action which is not in our best interests.

Attached is a memo I've sent to Wally with some suggestions. I hope this is OK with you.

Attachment



M E M O R A N D U M

TO: Wally Orpin

FROM: Philip Zeigler

DATE: February 6, 1987

SUBJECT: Chinatown - Harrison Avenue Street Improvements

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I appreciated the chance to review with you consultant Schoenfeld's preliminary findings concerning the proposed sidewalk, street and landscaping improvements on Harrison Avenue. These findings indicate that substantial portions of the sidewalk areas between Essex and Kneeland Streets have basement areaways under them which are of questionable structural condition. For this reason, it has been suggested that the new brick sidewalks and curbing be installed only in areas where the areaways do not exist.

It is also my understanding that the current cost estimate for the project is \$528,000, and that if the areaway reconstruction and repair were to be included in the construction contract, it would increase the cost by about \$200,000, notwithstanding certain legal and liability questions.

While I realize that this project has been long delayed, and that everyone is anxious to move ahead quickly, I recommend that the decision to proceed with only a portion of the project as originally conceived be reconsidered for the following reasons:

1. The project has extreme importance to us and to the Chinese community. It is practically adjacent to LaFayette Place and the proposed Kingston-Bedford project and deserves special and careful treatment as a major and new "entrance" to Chinatown.
2. Our consultant has found that the private areaways beneath public property are structurally unsound. I agree with you that there are questions of liability and propriety in spending public funds to improve private property. Nevertheless, we should not dismiss the real possibility that some of the private interests (i.e. New England Telephone, and #31 Beach Street) may be very willing to contribute private funds toward the project. This needs to be explored.
3. Independently and coincidentally, LaFayette Place (Marco Ottieri) has been holding discussions with BRA staff concerning their interests in private funding of additional improvements to Phillips Square. I am not completely familiar with these discussions, but I think that it is worth exploring in terms of the current situation.



These observations indicate that we should take a second look at this project. The findings of the consultant indicate that there are design issues, at minimum, which our staff should have a crack at, and Roger has agreed to do this with you.

In addition, there may be some policy and funding issues which should be thought about.

As a suggestion, it might be useful for your staff, Dick Hong, Roger, me, Shoenfeld, and any others you feel appropriate to get together over the next 10 days and see what we can come up with as an alternative way to proceed.

We have a problem. It needs a new design review, a policy decision on how the committed public funds are to be spent, and a review of additional private funding opportunities.

cc: Dick Hong

